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10/588,716

08/08/2006

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EXAMINER

BOMBERG, KENNETH

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

02/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/588,716 | Applicant(s) LE MANER ET AL. | |
| | Examiner KENNETH BOMBERG | Art Unit 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/8/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: appropriate section heading have been omitted. Appropriate correction is required.
2. Claims 5 and 6 are objected to because of the following informalities: In line 2, "ring" should be –fastener ring—for consistency with the other claims. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 7, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 3,248,021 to Corsette et al. (Corsette).

In Reference to Claims 1 and 7

In Figs. 1, 4 and col. 2, lines 43-64, Corsette teaches of a fastener ring (14) connecting a dispenser member (dispenser (pump)) to a neck (26) of a receptacle (container), the fastener ring having a deformable sealing means (V-shaped groove 75) cooperating with the neck in a leak-tight manner (col. 2, line 64), the sealing means comprising two deformable lips (outer and inner walls defining groove 75).

In Reference to Claims 2, 3, 4, 8, and 11

The lips (outer and inner walls defining groove 75) are: elastically deformable (flex; col. 2, lines 53 and 63), made integrally with the fastening ring (cast integrally; col. 2, lines 40-41), injection molded with the fastening ring (injection molding operation; col. 2 lines 42-43), fasten the dispenser in a leak tight manner to the receptacle (effect a seal; col. 2, lines 44-47), and compensates for dimensional variations in the neck of the receptacle (col. 2, lines 59-64).

In Reference to Claim 5

A snap fastener means (protuberance 22) includes a contact surface that cooperates with a shoulder surface (annular rib 25) (col. 2, lines 29-33).

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In Reference to Claim 6

The fastener ring (14) is made integrally with a turret (skirt 85) and with a ferrule (annular lip 92) defining a rest position of the dispenser member (35).

In Reference to Claims 9-10

The neck (26) has an axially projecting portion (lip of the container neck; col. 2, lines 43-37) cooperating with the sealing means (75). In Fig. 1, the lip can be seen having a rounded edge profile cooperating with the outer and inner walls defining the sealing means (groove 75) forming a leak-tight contact zone sloping at least in part.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wise, Duda and the other Corsette et al. references teach pumps mounted to containers by fastening rings and having deformable sealing means having two deformable lips. Yates, and Landis teach of closure seals having two deformable lips engaging with an axial bead on a container lip. De Pous shows a similar fastenting ring to that of applicants' but using a separate sealing member. Kosar teaches a verity of closure seals directly between the closure and the container neck.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENNETH BOMBERG whose telephone number is (571)272-4922. The examiner can normally be reached on Monday-Thursday and alternative Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571)272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KB

/Kenneth Bomberg/
Primary Examiner, Art Unit 3754